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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,518	12/06/2000	Masayuki Takahashi	2000-1416A	7609
7590	12/20/2004		EXAMINER	
Wenderoth Lind & Ponack Suite 800 2033 K Street N W Washington, DC 20006			LEROUX, ETIENNE PIERRE	
			ART UNIT	PAPER NUMBER
			2161	

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/673,518	TAKAHASHI, MASAYUKI
Examiner	Art Unit	
	Etienne P LeRoux	2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 14 October 2004 .

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 16-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 16-19 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 06 December 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6) Other: _____

Continued Examination

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/14/2004 been entered.

Claim Status

Claims 16-19 are pending. Claims 1-15 and 20-26 are canceled. Claims 16-19 are rejected as detailed below.

Specification

The specification is objected to as failing to comply with 37 CFR 1.71. A detailed description of the invention and drawings follows the general statement of invention and brief description of the drawings. This detailed description, required by 37 CFR 1.71, MPEP § 608.01, must be in such particularity as to enable any person skilled in the pertinent art or science to make and use the invention without involving extensive experimentation.

In instant specification there are numerous references to claims which have been canceled.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 16 includes the phrase “when recording new matter.” The skilled artisan would not be able to make and user the present invention because the specification does not contain a clear and concise description of “new matter.” In particular, the distinction between “new matter” and other forms of matter, such as presumably, existing matter, is not included in the specification. For purposes of this Office Action, “new data” will be interpreted per applicant’s definition provided in Remarks filed 10/14/2004, i.e., paragraph 4, page 5 which includes “the present invention connects a recordable area in advance of starting data recording for an indefinite required area when recording new data which is not yet recorded on a disk.”

Claims 17-19 are rejected for being dependent from a rejected base claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No. 5,675,769 issued to Ruff et al (hereafter Ruff).

Claim 16:

Ruff discloses a digital data recording/reproduction method for recording and reproducing digital data in units of clusters, which are each the smallest unit of data recording on a disk recording medium, said method comprising:

- constructing a file structure on the disk recording medium in which recordable clusters are connected in advance of starting data recording [data is removed from disk before altering partition table, col 4, lines 16-35];
- recording digital data from the head of the recordable clusters [data copied to disk, col 4, lines 40-44]
- constituting, as a recorded file, the digital data from a recording head cluster to a recording end cluster [system indicator 50 identifies file, col 3, lines 17-35].

Claim 17:

Ruff discloses detecting, when an abend occurs during said recording digital data from the head of the recordable clusters, the abend of data recording after recovery from the abend; and constituting, as a recorded file, the digital data which has been recorded from the start of data recording to the abend on the basis of format information of the digital data [col 8, lines 34-53].

Claims 19:

Ruff discloses wherein the format information of the digital data is time information [col 5, lines 60-65]

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruff in view of US Pat No. 4,103,338 issued to Cizmic et al (hereafter Cizmic)

Claim18:

Ruff discloses the elements of claims 16 and 20 as noted above.

Ruff fails to disclose wherein the format information of the digital data is a sync byte of a transport packet.

Cizmic discloses wherein the format information of the digital data is a sync byte of a transport packet [Fig 21]

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ruff to include wherein the format information of the digital data is a sync byte of a transport packet as taught by Cizmic.

The ordinarily skilled artisan would have been motivated to modify Ruff as above for the purpose of providing a point of reference for the synchronizing of two or more operations.

Response to Arguments

Applicant's arguments filed 10/4/2004 have been carefully considered but they are not persuasive.

Applicant Argues:

In the fourth paragraph on page 5, applicant states "The present invention provides a method and an apparatus for recording and reproducing digital data. The digital data recording/reproduction method of the present invention prevents the destruction of a file and the loss of data when an abend such a power failure occurs. The present invention is able to prevent the destruction of a file and the loss of data when an abend occurs by constructing a file structure, when recording new data, on a disk recording medium in which recordable clusters are connected in advance of starting data recording. That is, the present invention connects a recordable area in advance of starting data recording for an indefinite required area when recording new data which is not yet on a disk.

Examiner Responds:

Examiner is not persuaded. By applicant's own admission, "new data" comprises data "which is not yet on a disk." This definition is intuitively obvious and in no manner distinguishes the present invention over prior art cited by examiner or any other prior art. In particular, examiner fails to understand why the present invention concerns "new data" and Ruff concerns data which is "not new." Furthermore, the scope of the invention is unclear because applicant states that an "indefinite required area" is needed for the recordable area. It is unclear how "recordable clusters are connected" when each recordable area comprises an indefinite area.

Applicant Argues:

In the fifth paragraph on page 5, applicant states "Accordingly, by connecting the recordable clusters in advance of when recording of the new digital data begins, when data recording is interrupted by an abend, such as a power failure, data which would have been recorded but for the abend remain as part of the file, and therefore, the data file can be recorded or reproduced as if the abend never occurred."

Examiner Responds:

Examiner is not persuaded. Applicant states that recordable clusters are connected and thus a power failure during recording of data in a particular cluster does not affect the data. This is difficult to understand because it is unclear how the connection of clusters prevents data corruption during a power failure. It is only logical that if corrupted data occurs during a power failure then by having clusters connected, the corrupted data will be duplicated on a plurality of clusters.

Applicant Argues:

Applicant summarizes various features of the invention of Ruff on pages 6-9 and then states several times that Ruff does not disclose or suggest or even contemplate (page 6, third paragraph) a "method for constructing a file structure, when recording new data, on the disk medium in which recordable clusters are connected in advance of starting data recording as recited in claim 16.

Examiner Responds:

Examiner is not persuaded. MPEP § 2106 requires Office personnel to give claims their broadest reasonable interpretation in light of the supporting disclosure. Thus new data per applicant's above definition is data which is not yet on a disk and a disk sector is comparable to

recordable clusters. Considering the above, the following disclosure, column 4, lines 16-35, by Ruff reads on the claim 16 limitation "constructing a file structure, when recording new data, on the disk recording medium in which recordable clusters are connected in advance of starting data recording."

It is sometimes desirable to alter the contents of an IBM-compatible partition table. For instance, a person using a computer may wish to expand a particular partition to allow additional data to be stored in files within that partition. Conversely, the user may wish to shrink a specified partition by allocating fewer disk sectors to the partition. It may also be convenient or necessary to move a partition to a different location on the disk while substantially or exactly preserving the number of disk sectors allocated to the partition.

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One conventional approach to modification of an IBM-compatible partition table begins by copying all necessary user and system data off the disk to a temporary storage location such as a tape or another disk. The data copied includes without limitation the contents of files created by the user such as textual documents and spreadsheets, the contents of files required to run applications such as word processors, and system data such as directory information. Some internal file system data such as sector allocation maps does not necessarily need to be copied, but is often copied anyway. The familiar disk utility FDISK is then used to update the IBM-compatible partition table. The newly specified partition is then formatted with the familiar disk utility FORMAT or a similar utility. **Finally, the data is copied back into the new partition on the disk.** During this copying process the file system copy utility creates appropriate new file system structures reflecting the current locations of data on the disk.

The above disclosure by Ruff teaches that data is removed from the disk in order to repartition the sectors. After the sectors have been rearranged, data is copied back into the newly partitioned disk.

Applicant Argues:

Applicant states in the fifth paragraph on page 8 "However, the partition resizing method of Ruff et al is markedly different from preventing the destruction of a file and the loss of data when an abend occurs by constructing a file structure, when recording new data, on a disk recording medium in which recordable clusters are connected in advance of starting data recording."

Examiner Responds:

Art Unit: 2161

Examiner is not persuaded. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., preventing the destruction of a file) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Etienne LeRoux

12/02/2004



SAFET METJAHIC
EXAMINER
ART UNIT 2161
12/02/2004